

## REMARKS

Applicants submit the enclosed amended claims. The Examiner has cited the following reference: Thomas, Samuel C., “An East Coast View: The Right Price for PJM,” *Public Utilities Fortnightly*, v135n18, pg. 40-44, Oct. 1, 1997 (“the LMP reference”). Applicants do not believe the LMP reference renders the claims anticipated or obvious. The LMP reference teaches the following:

Is the price signal from LMP effective, given that LMP is calculated after the fact? Yes. LMP is a spot price, determined from the marginal costs of the generators used in actual dispatch by the ISO. Hence, it is calculated after dispatch.

As an initial matter, Applicants do not believe that the LMP reference is relevant to the present invention as claimed. The LMP reference is directed to calculating an LMP (locational marginal price). By contrast, the present invention is directed to calculating a clearing price for all members, regardless of the location within the network areas.

Even if the LMP reference were deemed applicable (which applicants do not contend), the reference does not anticipate or render the claims obvious. LMP charges energy users different prices based on congestion in the power system. In effect, LMP seeks to assess a “congestion charge.” Areas in the transmission system where more power is being transferred are charged a higher rate than other areas. Determining the congestion charge realistically cannot be performed until after dispatch of the energy services. By contrast, the clearing price as recited in the claims is not calculated to assess a congestion charge. Therefore, the motivation to determine the LMP in the cited reference (*i.e.* the congestion charge) is not present when calculating the clearing price as claimed.

Further, the claims recite “determining at least one real time condition, the real time condition consisting of data related to at least one of the generating units or the load facilities”,

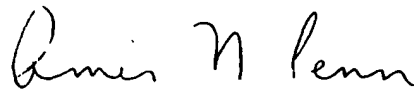
which is in contrast to the reference. Specifically, the cited reference determines as its real time condition an aspect related to the transmission system, namely the congestion in the transmission system. The congestion in the transmission system then determines the pricing at the various nodes in the system. It does not, however, determine the real time condition relating to the generating units or the load facilities.

Finally, the calculation of the clearing price as recited in the claims (see claim 1: “wherein the clearing price is a price for a supply side bid arranged in step (d) at which quantities for supply side bids equals the energy services dispatched to the consumers in step (c)”), is entirely different from that recited in the LMP reference. The LMP reference does not determine a clearing price where supply side bids equals energy services dispatched. In fact, the opposite is true. The entire purpose of LMP is so that this type of calculation is avoided. As discussed in the LMP reference:

LMP does not discriminate. Generators are paid and users are charged comparably, based on the true cost of transmission congestion between the injection and delivery points used. If those costs vary by location and use, and they do, then charging everyone the same price, as PECO and CCEM urge, would be discriminatory.

Therefore, the LMP reference teaches that the clearing price as claimed is “discriminatory” and should be avoided. For at least these reasons, the claims as presented distinguish over the cited art. Should there be any remaining formalities, the Examiner is invited to contact the undersigned attorneys for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Amir N. Penn". The signature is fluid and cursive, with the first name "Amir" being more prominent.

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